

April 15, 2009

Office of Patent Publication
Attn: Certificates of Corrections Branch
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent No. 6,602,256
Issued: August 5, 2003
Application No. 09/685,708
Inventor: Kyle Hayes
For: BONE STABILIZATION PLATE WITH A SECURED-LOCKING
MECHANISM FOR CERVICAL FIXATION
Our Ref. No.: 5490E-000564/CPA

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 CFR §1.323

Sir:

We have reviewed the above-identified patent and have found the following typographical errors in the patent which require correction:

Column 3, Line 32, delete "leif" and insert --leaf--.

Column 5, Line 23 delete "lief" and insert --leaf--.

Column 5, Line 25, delete "lief" and insert --leaf--.

Column 5, Line 26, delete "lief" and insert --leaf--.

Column 6, Lines 29-32, Claim 2, delete "the vertical freedom is defined by a lock screw which extends through an opening in the lock plate to secure the lock plate to the fixation plate" and insert --the lock plate includes a boss, which cooperates with a recess in the fixation plate to secure the lock plate to the fixation plate--.


Column 6, Line 34, Claim 3, delete "leif" and insert --leaf--.

It is respectfully submitted that the change in the language of claim 2 does not constitute new matter. The current claim 2, as issued, was inadvertently entered by a typographical/mix-up error during prosecution without the Examiner or the Applicant noticing. Specifically, issued

claim 2 was re-numbered from original claim 4. Original claim 4 was amended during prosecution to only change its dependence to a new claim that became issued claim 1, and was allowed in view of its dependence from allowed claim 1, as issued. While the amendment purported to change only the dependence of original claim 4, the original text of claim 4 was replaced (without amendment) via an inadvertent typographical error by a text that was inadvertently copied from parent application U.S. Serial No. 09/415,805, now U.S. Patent No 6,224,602. The correction restores issued claim 2 to its content, as originally examined and allowed. Pertinent portions of the prosecution history are attached at the end of this request.

A Certificate of Correction form is attached for approval. An electronic payment of \$100.00 is authorized through the electronic filing system. However, if Applicants have not paid a sufficient fee, please consider this authorization to charge Deposit Account No. 08-0750 for any underpayment.

Respectfully submitted,

By: 

Maria Comninou
Reg. No. 44,626

Attachments

Notice of Allowability

Application No.

09/885,708

Examiner

Eduardo C. Robert

Applicant(s)

HAYES, KYLE

Art Unit

3732

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 11/14/02 and interview on 12/12/02.
2. ☒ The allowed claim(s) is/are 4-12 and 14.
3. ☒ The drawings filed on 14 November 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☒ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449), Paper No. _____.
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☒ Interview Summary (PTO-413), Paper No. _____.
- 6 ☒ Examiner's Amendment/Comment
- 8 ☐ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other


EDUARDO C. ROBERT
PRIMARY EXAMINER

B

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Laura F. Shunk on December 12, 2002.

The application has been amended as follows:

In claim 4, line 1, "claim 13" has been changed to -- claim 14 --.

In claim 12, line 1, "claim 13" has been changed to -- claim 14 --.

Claim 13 has been canceled.

New claim 14 has been added as follows:

-- ~~13~~ 14. A bone plate comprising;

B'

a fixation plate defining at least one through bore through which at least one screw is inserted to fix the plate to a bone, and a lock plate having a sliding engagement with the fixation plate and being longitudinally adjustable from a first position in which the through bore is accessible to the screw to a second position in which the lock plate retains the screw from backing out of the bone, one of said lock plate and said fixation plate having a channel which receives the other of said lock plate and said fixation plate to form said sliding engagement, and said channel including a dovetail which receives a flange. --

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EXAMINER'S COMMENT

The terminal disclaimer filed on November 14, 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,224,602 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 703-305-7333. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Eduardo C. Robert
Primary Examiner
Art Unit 3732

E.C. Robert
December 13, 2002

B

Interview Summary

Application No.

09/685,708

Applicant(s)

HAYES, KYLE

Examiner

Eduardo C. Robert

Art Unit

3732

All participants (applicant, applicant's representative, PTO personnel):

(1) Eduardo C. Robert (3) _____

(2) Ms. Laura F. Shunk (4) _____

Date of Interview: 12 December 2002.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 4, 12, and 13.

Identification of prior art discussed: Bray.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


EDUARDO C. ROBERT
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbal or highly summarized description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's amendment filed on November 14, 2002 includes a new claim which was misnumbered as claim 17 instead of claim 13. This claim has been renumbered as claim 13. Claims 4 and 12 were amended to depend from claim 13. Also, after discussing the claims with applicant's representative, a new claim 14 was proposed and the examiner agreed that it is allowable over the art of record. Claim 13 was canceled and the dependency of claims 4 and 12 was changed to new proposed claim 14 (see "Examiner's Amendment" attached hereto).

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kyle Hayes

Examiner: Eduardo C. Robert

Serial No. 09/685,708

Group Art Unit: 3926

Filed: 10/10/2000

Date: November 8, 2002

For: "BONE STABILIZATION PLATE WITH A SECURED-LOCKING
MECHANISM CERVICAL FIXATION"

RECEIVED

Assistant Commissioner of Patents
Washington, D.C. 20231

NOV 19 2002

Attn: BOX AMENDMENT

TECHNOLOGY CENTER R3700

AMENDMENT "A"

In response to the Office Action dated August 12, 2002, applicant responds as follows in this marked-up version:

Please amend the above-identified application as follows:

IN THE ABSTRACT

Amend the abstract as marked (deleting "means of" in line 5 of the abstract)

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A bone plate assembly is provided having a fixation plate held in position in a bone by a plurality of fasteners. The fasteners extend through holes in the bone plate to engage the bone below. Further, the assembly includes a locking plate, which is secured to the fixation plate by [means of] a lock screw or in a further embodiment by a mechanically biased detent extending into a hole in the locking plate. The lock plate can also include a divot, which is shallower than the hole to hold the lock plate in a open position. Further, the locking plate has a dovetailed connection to engage the flanges defining the exterior edges of a channel and the fixation plate. The locking plate, thus, has a sliding connection from a first position where it has at least partial openings corresponding to the openings of the fixation plate for the fasteners, and optionally also for a graft screw. In a second position, the edge of the plate surrounding the opening overlaps the fastener openings so as

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9 to lock these openings against the fastener backing out. The locking plate lock screw opening is counter sunk in the second position to enable the lock screws with the exterior surface of the locking plate.

IN THE CLAIMS

Please cancel claims 1, 2 and 3.

Amend claim 4 as follows:

MY 922 (Amended) A bone plate as set forth in claim 17 [3], wherein the vertical freedom is defined by a lock screw which extends through an opening in the lock plate to secure the lock plate to the fixation plate..

Add new claim 17 as follows:

13 17. A bone plate comprising;
a fixation plate and a locking plate wherein the fixation plate can be fixed by at least one fastener to a bone, and
wherein the locking plate is secured to the fixation plate and is longitudinally adjustable from a first position to a second position in which the fastener is locked into position by the plate and with limited vertical and longitudinal freedom relative to the fixation plate and wherein the longitudinal freedom is defined by a sliding connection between the locking plate and the fixation plate.

Respectfully Submitted,

HUDAK, SHUNK & FARINE CO LPA

Laura F. Shunk

Laura F. Shunk
Reg. No. 31,423

Attorney Docket No. CROSS-NN-CIP

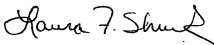
REMARKS

This amendment is in response to the Office Action of August 12, 2002. The Examiner objected to the drawings, which were filed as informal drawings. Formal drawings are filed herein. The abstract has been amended to delete the term "means". Claims 1-3 have been combined as these claims have been indicated as allowable. Finally, a terminal disclaimer is filed herein to overcome the double- patenting rejection.

It is respectfully submitted that the application is in condition for allowance, and notice to such effect is earnestly solicited.

Respectfully Submitted,

HUDAK, SHUNK & FARINE CO LPA



Laura F. Shunk
Reg. No. 31,423

Attorney Docket No. CROSS-NN-CIP

WHAT IS CLAIMED IS

1. A bone plate comprising;

a fixation plate defining at least one through bore through which at least one screw is inserted to fix the plate to a bone, and a lock plate, wherein the lock plate has a sliding engagement with the fixation plate and is longitudinally adjustable from a first position in which the through bore is accessible to the screw to a second position in which the lock plate retains the screw from backing out of the bone.

2. A bone plate as set forth in claim 1, wherein one said lock plate and said fixation plate have a channel which receives the other of said lock plate and said fixation plate to form said sliding engagement.

3. A bone plate as set forth in claim 2, wherein said channel includes a dovetail, which receives a flange.

4. A bone plate as set forth in claim 3, wherein the lock plate includes a boss, which cooperates with a recess in the fixation plate to secure the lock plate to the fixation plate.

5. A bone plate as set forth in claim 4, wherein the lock plate includes a slit to define a leaf spring which includes said boss.

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4/ 8. A bone plate as set forth in claim 5, wherein the boss is on the underside of the lock plate.

8/ 1. A bone plate as set forth in claim 1, wherein the sliding connection is formed by providing opposing shoulders in the top of the fixation plate so as to define a guide way for the lock plate.

9/ 8. A bone plate as set forth in claim 1, wherein the guide way includes opposing undercuts to restrain the locking plate vertically as well as laterally.

5/ 4. A bone plate as set forth in claim 1, wherein the recess is formed on the top side of the fixation plate.

6/ 5. A bone plate as set forth in claim 1, wherein said fixation plate further includes a first recess which receives the boss to hold the lock plate in the first position and a second recess which receives the boss to hold the lock plate in the second position.

7/ 6. A bone plate as set forth in claim 1, wherein said screw has a step cut head.

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10/ 12. A bone plate as set forth in claim 1, wherein said bone plate includes multiple screws and said lock plate can simultaneously lock multiple screws into position.

13/14/15

add a3

000101" 80/58960

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : **6,602,256**
APPLICATION NO: 09/685,708
DATED : August 5, 2003
INVENTOR(S) : Kyle Hayes

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3

Line 32, delete "leif" and insert --leaf--.

Column 5

Line 23 delete "lief" and insert --leaf--.

Column 5

Line 25, delete "lief" and insert --leaf--.

Column 5

Line 26, delete "lief" and insert --leaf--.

Column 6

Lines 29-32, Claim 2, delete "the vertical freedom is defined by a lock screw which extends through an opening in the lock plate to secure the lock plate to the fixation plate" and insert --the lock plate includes a boss, which cooperates with a recess in the fixation plate to secure the lock plate to the fixation plate--.

Column 6

Line 34, Claim 3, delete "leif" and insert --leaf--.

MAILING ADDRESS OF SENDER: Stephen T. Olson
Maria Comninou
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

Page 1 of 1
PATENT NO. 6,602,256

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.